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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,300	12/16/2003	Michael Muller	LOT920030036US1	7679
23550 7590 09/07/2007 HOFFMAN WARNICK & D'ALESSANDRO, LLC 75 STATE STREET 14TH FLOOR ALBANY, NY 12207			EXAMINER OSBERG, THUY THANH	
			ART UNIT 2179	PAPER NUMBER
			MAIL DATE 09/07/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

MN

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/737,300

Applicant(s)

MULLER ET AL.

Examiner

Thuy Osberg

Art Unit

2179

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 24 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-10, 12-15 and 21-28.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_.

BA HUYNH  
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:

The applicant argues "the examiner uses language that implies an alleged "obviousness" of many features set forth in the claims and gave an example of "it will be recognized by those skill in the art that the shape and the location of the popup window may be varied according to the design choice of designers and computer programmer using such a popup window to be displayed anywhere within the window". The examiner disagrees and respectfully submits the following statement when used focuses on the word "recognized" which synonymous with "documented" so this does not show a 103 obviousness rejection but clearly defines a 35 U.S.C. 102 rejection for be documented.

The applicant argues that Chu fails to disclose, inter alia, the features of "upon selection of the first level root node, displaying a pop-up window that includes a listing of all second level child nodes of the first level root node immediately adjacent and to a right side of the first level root node in the first window".

The examiner disagrees and respectfully submits that Chu clearly teaches "upon selection of the first level root node (fig. 8C, label 98: "UTILITIES", "DATABASE"; par [0050], lines 13-21), displaying a pop-up window that includes a listing of all second level child nodes of the first level root node immediately adjacent and to a right side of the first level root node in the first window (fig. 7A, label 95; par [0049]; fig. 8A, labels 80, 97; par [0051], lines 4-7, that it will be recognized (documented) by those skilled in the art that the shape and the location of the popup window may be varied according to the design choice of designers and computer programmer using such a popup widow to be displayed any where within the window). Furthermore, in figure 7A, the popup box to the right of the nodes.

The applicant argues "selecting one of the second level child nodes from the listing of all second level child nodes included in the pop-up window".

The examiner disagrees and respectfully submits that Chu clearly teaches "selecting one of the second level child nodes from the listing of all second level child nodes included in the pop-up window (fig. 8A, label 97; par [0050], lines 13-26). Chu states to display all nodes and the user has the ability to select nodes for an action.

The applicant argues "wherein, upon selection of one of the second level child nodes, the pop-up window that includes the listing of all second level child nodes of the first level root node disappears from the first window, and is replaced by the selected second level child node, which is displayed immediately adjacent and to the right side of the first level root node in the first window, wherein the first level root node and the selected second level child node are displayed in a linear horizontal arrangement in the first window, and wherein a depth of a navigation path through the object hierarchy increases from left to right in the first window".

The examiner disagrees and respectfully submits that Chu clearly teaches wherein, upon selection of one of the second level child nodes (par [0050], lines 21-26), the pop-up window that includes the listing of all second level child nodes of the first level root node disappears from the first window (par [0008]; par [0054]; par [0049], that when the dialog boxes could be made to appear by clicking on the nodes or to be hide (disappeared), if the user not clicking on the nodes), and is replaced by the selected second level child node (par [0008]; par [0054]; par [0049], that when the dialog boxes could be made to appear by clicking on the nodes or to be hide (disappeared), if the user not clicking on the nodes), and is replaced by the selected second level child node, which is displayed immediately adjacent and to the right side of the first level root node in the first window (fig. 7A, label 95; par [0049]; fig. 8A, labels 80, 97 "UTILITIES" "DATABASE"; par [0051], lines 4-7, that it will be recognized (documented) by those skilled in the art that the shape and the location of the popup window may be varied according to the design choice of designers and computer programmer using such a popup widow to be displayed any where within the window), wherein the first level root node and the selected second level child node are displayed in a linear horizontal arrangement in the first window (fig. 8A, label 97, "PRODUCT W", "UTILITIES" are displayed liner horizontal arrangement), and wherein a depth of a navigation path through the object hierarchy increases from left to right in the first window (par [0006]; fig. 4, label 300; par [0040]-[0041]; fig. 9C; par [0056])" Chu clearly teaches the pop-up window to the right side of the root node and also hiding (disappearing from sight) of selected nodes along with the arrangement (linear) as depicted in the figures coinciding with the applicable paragraphs.

The applicant disagrees "that Chu's label 97 is not displayed immediately adjacent and to the right side of the first level root node in the first window".

The examiner disagrees and respectfully submits that Chu clearly teaches "that Chu's label 97 is not displayed immediately adjacent and to the right side of the first level root node in the first window (fig. 7A, label 95; par [0049]; fig. 8A, labels 80, 97; par [0051], lines 4-7)". After reviewing the figures provided by Chu, it clearly shows to the right of the root node and that it will be recognized (documented) by those skilled in the art that the shape and the location of the popup window may be varied according to the design choice of designers and computer programmer using such a popup widow to be displayed any where within the window). Furthermore, in figure 7A, the popup box to the right of the nodes.

Therefore, claims 1-10, 12-15 and 21-28 are not allowable over the teaching of Chu. The position of the prosecution has been closed. The final rejection stands.